

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BERTIN DOMINGUEZ, ISRAEL ACOLTZI,
JOSE ALEJANDRO MOLINA LUNA, LUIS
GONZALO CARCHI, and RUBEN
CEGUEDA, individually and on behalf of others
similarly situated,

Plaintiffs,

-against-

NEW YORK BAGELS EATERY INC., (D/B/A NY
BAGELS & CAFÉ), NYU BAGELS & CAFÉ, INC.
(D/B/A NY BAGELS & CAFÉ), CHON, JOO S., and
PYONG, SU SON,

Defendants.

Case No. 20-cv-9427-GHW

**SETTLEMENT AGREEMENT
AND
RELEASE**

This Settlement Agreement and Release of Claims (“Agreement”) is entered into by and among Plaintiffs BERTIN DOMINGUEZ, ISRAEL ACOLTZI, JOSE ALEJANDRO MOLINA LUNA, LUIS GONZALO CARCHI, and RUBEN CEGUEDA (“Plaintiffs”), on the one hand and Defendants NEW YORK BAGELS EATERY INC. (D/B/A NY BAGELS & CAFÉ) and Pyong, Su Son (“Appearing Defendants”) on the other hand.

WHEREAS, Plaintiffs alleges that they worked for Defendants as employees; and

WHEREAS, a dispute has arisen regarding Plaintiffs’ alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Southern District of New York District of New York, Civil Action No20-cv-9427-GHW (hereinafter “the Litigation”), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Appearing Defendants deny all claims including but not limited to any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Payment: Appearing Defendants shall pay or cause to be paid to Plaintiffs, subject to the terms and conditions of this Agreement, and as full, complete, and final settlement and final satisfaction of all claims Plaintiffs had against Appearing Defendants in the Litigation

through the Effective Date of this Agreement, including all counsel fees and costs incurred by Plaintiffs, the gross sum of Fifteen Thousand, Dollars and No Cents (**\$15,000.00**) (the "Settlement Amount") to be paid by separate checks delivered to Plaintiffs' attorneys in one ("1") installment, as follows:

BERTIN DOMINGUEZ	\$2,000.00
ISRAEL ACOLTZI	\$2,000.00
JOSE ALEJANDRO MOLINA LUNA	\$2,000.00
LUIS GONZALO CARCHI	\$2,000.00
RUBEN CEGUEDA	\$2,000.00
Michael Faillace & Associates, P.C.	\$5,000.00

The payment checks shall be delivered to the Faillace Law Firm within thirty (30) calendar days after the Court approves this Settlement Agreement. ,

2. Release and Covenant Not To Sue: Plaintiffs hereby expressly waive, release, and forever discharge any and all claims that they had against the Appearing Defendants, or any of Appearing Defendants' respective owners, officers, directors, agents, attorneys, employees or representatives, or their successors in interest, arising out of or in connection with this Litigation and the federal and New York state wage and hour claims made therein.

3. No Admission of Wrongdoing: This Agreement and compliance with this Agreement shall not be construed as an admission by Appearing Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

4. Modification of the Agreement: This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiffs and Appearing Defendants.

5. Acknowledgments: Plaintiffs acknowledges that: they has been fully and fairly represented by counsel in this matter. Appearing Defendants acknowledge that they have consulted with counsel for the purpose of this Agreement. Plaintiffs and Appearing Defendants acknowledge that they are not relying upon any statement, representation or promise in executing this Agreement except for statements, representations or promises expressly set forth in this Agreement. They further acknowledge and agree that the only consideration for signing this Agreement is as set forth in this Agreement.

6. Notices: Notices required under this Agreement shall be in writing, by email, and shall be deemed given upon electronic transmission thereof. Notice hereunder shall be delivered, by email, to:

To Plaintiffs:

Michael Faillace, Esq.

MICHAEL FAILLACE & ASSOCIATES, P.C.

60 East 42nd St. Suite 4510

New York, NY 10165

Tel: (212) 317-1200

Fax: (212) 317-1620

Email: michael@faillacelaw.com

To Appearing Defendants:

Evan Spelfogel, Esq.

PHILLIPS NIZER, LLP

485 Lexington Avenue

New York, NY 10017

212- 841-0539

Fax: 212-262-5152

Email: espelfogel@phillipsnizer.com

7. Governing Law: This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Southern District of New York and the Supreme Court of the State of New York in any subsequent proceeding to enforce this Agreement.

8. Enforceability: If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement.

9. Release Notification: Plaintiffs discussed the terms of this Agreement and release of claims with their legal counsel and Plaintiffs acknowledges that they have consulted with Michael Faillace, Esq. of Michael Faillace & Associates, P.C., Plaintiffs acknowledges that it is their choice to waive any claims in return for the benefits set forth herein and that they made this decision after careful thought and a reasonable period of time to consider this Agreement, and after an opportunity to consult with their attorneys. Plaintiffs confirms that this Settlement Agreement and Release has been translated to them in Spanish and that they understand the terms of this Agreement and that they are signing this Agreement voluntarily.

10. Counterparts: To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such

counterparts together shall constitute but one and the same instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile or electronic transmission.

PLAINTIFFS

By:

Dated:

BERTIN DOMINGUEZ

By:

Dated:

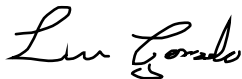
ISRAEL ACOLTZI

By:

Dated:

JOSE ALEJANDRO MOLINA LUNA

By:



Dated:

5/12/21

LUIZ GONZALO CARCHI

By:

Dated:

RUBEN CEGUEDA

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PLAINTIFFS

By:

Dated:

BERTIN DOMINGUEZ

By:

Dated:

ISRAEL ACOLTZI

By:

Dated:

JOSE ALEJANDRO MOLINA LUNA

By:

Dated:

LUIZ GONZALO CARCHI

By:

Dated:

RUBEN CEGUEDA

5/6/2021

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PLAINTIFFS

By:

Dated:

BERTIN DOMINGUEZ

By:

Dated:



5/19/21

ISRAEL ACOLTZI

By:

Dated:

JOSE ALEJANDRO MOLINA LUNA

By:

Dated:

LUIZ GONZALO CARCHI

By:

Dated:

RUBEN CEGUEDA

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PLAINTIFFS

By:



BERTIN DOMINGUEZ

Dated:

05/07/2021

By:

ISRAEL ACOLTZI

Dated:

By:

JOSE ALEJANDRO MOLINA LUNA

Dated:

By:

LUIZ GONZALO CARCHI

Dated:

By:

RUBEN CEGUEDA

Dated:

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PLAINTIFFS

By:

Dated:

BERTIN DOMINGUEZ

By:

Dated:

ISRAEL ACOTZI

By:

Dated:

JOSE ALEJANDRO MOLINA LUNA

06/05/21

By:

Dated:

LUIZ GONZALO CARCHI

By:

Dated:

RUBEN CEGUEDA

APPEARING DEFENDANTS

By:

Dated:

For NEW YORK BAGELS EATERY INC.

PYONG SU SON

Dated:

APPEARING DEFENDANTS

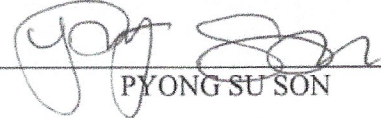
By:



For NEW YORK BAGELS EATERY INC.

Dated:

7-7-21


PYONG SU SON

Dated:

7-7-21